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In re Application of
THOMSON, et al.
Application No.: 09/446,379
PCT No.: PCT/GB/01882
Int. Filing Date: 26 June 1998
Priority Date: 26 June 1997
Attorney Docket No.: P06597/USO/MP
For: CELL CULTURE PRODUCTS

DECISION ON PETITION

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC 371" filed 11 February 2000 which is being treated as a petition to change an inventor's name under 37 CFR 1.182. The petition fee of \$130.00 has been charged to counsel's Deposit Account No. 12-0555, per applicant's authorization.

BACKGROUND

On 21 December 1999, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee and a copy of the International Application. An oath or declaration as required by 35 U.S.C 371(c)(4) was not provided.

On 11 February 2000, applicants filed a second transmittal letter including a declaration signed by the inventors and the appropriate \$130.00 surcharge for filing an oath or declaration later than 30 months from the earliest claimed priority date as required by 37 CFR 1.492(e). However, in studying the declaration presented it has been determined that the name for inventor Sharon Dawn MALTMAN is a different name than on the International Application in which she is listed as Sharon Dawn WINTER. Inventor's signature with her new name is being construed to be a petition under 37 CFR 1.182 as discussed above.

On 25 February 2000, the United States/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C 371 (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for filing an oath or declaration later than 30 months from the

earliest claimed priority date as required by 37 CFR 1.492(e) must be furnished. The notification set a one month time limit in which to respond.

DISCUSSION

The Notification of Missing Requirements under 35 U.S.C 371 (Form PCT/DO/EO/905) mailed on 25 February 2000 was obviously mailed before the second transmittal letter was placed in the file. It will be VACATED.

As to the filed declaration the Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. As noted above, the \$130.00 petition fee has been charged to counsel's Deposit Account No. 12-0555, and thus item (1) has been satisfied.

With regard to item (2), applicants have not provided an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. Therefore, item (2) has not been satisfied, and thus the petition may not be properly granted at this time.

CONCLUSION

The petition under 37 CFR 1.182 is **DISMISSED without prejudice.**

For the reasons stated above, the Notification of Missing Requirements under 35 U.S.C 371 (Form PCT/DO/EO/905) mailed on 25 February 2000 is **VACATED.**

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

A proper response must include an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Extensions of time may be obtained under 37 CFR 1.136(a).

Failure to file a proper response within the time period for response as set forth above, or as extended by any petitions for extensions of time under 37 CFR 1.136(a), will result in abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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